

# Order

Michigan Supreme Court  
Lansing, Michigan

June 20, 2006

Clifford W. Taylor,  
Chief Justice

ADM File No. 2006-08

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

Proposed Amendment of  
Rule 7.211 of the  
Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.211 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [www.courts.michigan.gov/supremecourt](http://www.courts.michigan.gov/supremecourt).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated in underlining and deletions are indicated in strikeover.]

## Rule 7.211 Motions in Court of Appeals

(A)-(B) [Unchanged.]

(C) Special Motions. If the record on appeal has not been sent to the Court of Appeals, except as provided in subrule (C)(6), the party making a special motion shall request the clerk of the trial court or tribunal to send the record to the Court of Appeals. A copy of the request must be filed with the motion.

(1)-(4) [Unchanged.]

(5) Motion to Withdraw. A court-appointed appellate attorney for an indigent appellant may file a motion to withdraw if the attorney determines, after a conscientious and thorough review of the trial court record, that the appeal is wholly frivolous.

(a) [Unchanged.]

(b) The motion to withdraw and supporting papers will be submitted to the court for decision on the first Tuesday ~~56 days after the appellant is served.~~

- (i) 28 days after the appellant is served in appeals from orders of the family division of the circuit court terminating parental rights under the Juvenile Code; or
- (ii) 56 days after the appellant is served in all other appeals.

The appellant may file with the court an answer and brief in which he or she may make any comments and raise any points that he or she chooses concerning the appeal and the attorney's motion. The appellant must file proof that a copy of the answer was served on his or her attorney.

(c) [Unchanged.]

(6)-(9) [Unchanged.]

(D)-(E) [Unchanged.]

Staff Comment: The June 20, 2006, proposed amendments of MCR 7.211 reflect the recommendations of Michigan Court of Appeals. The proposed amendments would reduce from 56 days to 28 days the deadline for submission of a motion to withdraw as appointed counsel in an appeal from an order terminating parental rights. The 56-day deadline would be retained for all other appeals. The Court of Appeals points out that if the proposed amendment is approved, the time before submission that is allotted to the party to file an answer to the motion will be equivalent to the time provided to that same party to draft the appellant's brief on appeal. See MCR 7.212(A)(1)(a)(iii) for the standard case (56 days), and MCR 7.212(A)(1)(a)(i) for cases involving orders terminating parental rights (28 days). The Court of Appeals therefore believes that shortening the time allotted in cases involving termination of parental rights would be consistent with the truncated time line that is otherwise applied to those cases.

The Court of Appeals also believes that the review function of the Court of Appeals staff is a good safeguard against frivolous motions to withdraw in cases where answers are not filed.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201.

Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by October 1, 2006, at P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2006-08. Your comments and the comments of others will be posted at [www.courts.mi.gov/supremecourt/resources/administrative/index.htm](http://www.courts.mi.gov/supremecourt/resources/administrative/index.htm).



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 20, 2006

*Corbin R. Davis*  
Clerk